In 2018, the Children’s Bureau made a historic policy change allowing federal funding to support children’s and parents’ counsel, and more recently, funding to reimburse for the associated costs of multidisciplinary legal teams such as paralegals, investigators, peer mentors, and social workers. States across the country have begun to draw down these new financial resources. Existing research demonstrates that models of high-quality legal representation for children and parents significantly improve case outcomes such as reunification and time to permanency. Little research exists, however, regarding the relationship between funding allocations and the quality of legal representation. This assessment helps to fill that gap.

“It is our hope that the findings and recommendations presented in this assessment demonstrate how jurisdictions across the country can increase investments in legal representation to better support families and improve child welfare outcomes.”

– Prudence Beidler Carr, Director & Eva Klain, Assessment Director, ABA Center on Children and the Law
Assessment Methodology

The ABA Center on Children and the Law designed this assessment in order to offer stakeholders insights on the effects of funding changes on the provision of high-quality representation. The study specifically examines how funding for child and parent counsel affects factors typically associated with high-quality legal representation, including caseloads, adequate staffing, workload, time management, training and experience, out-of-court advocacy, and interdisciplinary models of practice. The Children's Bureau policy change has made this assessment especially important because states and counties across the country can use its findings to inform their decisions about what increased funding could mean for children and parents.

In 2014, California began adjusting the dependency counsel budget allocation using a workload-based formula and also augmented state resources for dependency counsel. For this evaluation, three sites were selected. The period of study covered activities through fiscal year 2017-2018 and showed that the quality of legal representation attorneys provide to child and parent clients improved with increases in funding and became more constrained with decreased funding.

The three jurisdictions are referred to as Sites A, B and C, and had the following characteristics:

<table>
<thead>
<tr>
<th>INCREASED FUNDING SITE A</th>
<th>DECREASED FUNDING SITE B</th>
<th>DECREASED FUNDING SITE C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large, mostly urban county with increase in funding</td>
<td>Large, mostly suburban county with decrease in funding</td>
<td>Small, mostly rural county with decrease in funding</td>
</tr>
</tbody>
</table>

Key Findings

Through a qualitative and quantitative analysis, three key findings emerged.

1. **Funding changes for child and parent counsel had a direct impact on several factors that affect legal representation quality, such as attorney recruitment and retention, multidisciplinary legal practice, caseloads, workload per case, and case delays.**

   The primary areas affected by funding changes fall into two categories: **staffing** and **time**.

   **STAFFING**
   - Attorney Recruitment and Retention
   - Multidisciplinary Legal Practice
   - Compensation levels

   Adequate staffing leads to fewer delays, greater consistency in representation for the client, and opportunities to improve practice through training, experience, and oversight.

   **TIME**
   - Caseloads
   - Workloads
   - Continuances

   By having a lower caseload, attorneys have more time per case, including time for out-of-court advocacy, more time to prepare for court hearings, and more time to meet with clients.

   Attorneys reported the greatest challenge is a lack of time to adequately represent their child and parent clients. Changes in funding allocation affected attorney time because increased funding often meant expanded total staffing, leading to reduced caseloads and allowing more time per case, including more time to prepare for court hearings and more time to meet with clients.
“Funding for legal representation is important to reduce caseloads and also to allow attorneys time to work with their clients, engage them in their case, and ultimately achieve better results for the children and families we serve.”
– Greg Rose, Deputy Director, Children & Family Services Division, CDSS

In addition to attorney funding, other child welfare system factors influenced the quality of child and parent legal representation. These included agency policy, court funding and structure, and client access to services.

A child welfare agency’s approach to filing petitions only in cases presenting the greatest risk to child safety can reduce total caseload numbers per attorney while increasing the complexity of the workload in each case, court backlogs can limit attorney time in and out of the courtroom, and a child or parent client’s ability to access services as part of a case plan can directly affect attorney advocacy in the case.

Factors outside the child welfare system also affected the quality of legal representation available to children and parents in the sites studied. For example, homelessness and poverty were regularly reported as significant challenges for effective legal representation.

<table>
<thead>
<tr>
<th>SITE A</th>
<th>SITE B</th>
<th>SITE C</th>
</tr>
</thead>
<tbody>
<tr>
<td>The location of the courthouse is expensive for families to reach and is not sufficiently accessible by public transportation</td>
<td>The distances between several courthouses presents a problem for attorney travel and leads to courtroom staffing issues</td>
<td>Its rural location was identified as an attorney recruitment obstacle.</td>
</tr>
</tbody>
</table>

Recommendations for Stakeholders

Ensure attorney funding adequately addresses staffing and time requirements to meet the demands of each case and improve outcomes for parents and children.

<table>
<thead>
<tr>
<th>STAFFING</th>
<th>PRACTICE MODELS</th>
<th>TIME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sufficient funding to recruit quality attorneys and retain them for the long term</td>
<td>Funding to invest in multidisciplinary models of practice that include social workers and peer or parent mentors as part of the legal team.</td>
<td>Funding level that allows for manageable caseloads and sufficient time to meet the workload demands</td>
</tr>
</tbody>
</table>
“My legal services provider is a place where you can feel safe. You can feel safe with your experience. They have a heart for family. They are like people that reach out. They don’t just stand on the wall waiting to be reached by those that need help. They offer a helping hand.”

– Parental Legal Services Provider Client

2

Understand and address potential influences within the child welfare system (both the agency and judicial processes) on quality legal representation (QLR) that exist outside attorney funding, including petition filing, court funding, hearing delays, and the ability of clients (parents and children) to access needed services and supports.

“We see a wide variation in the processes and procedures of agencies and the courts across the 58 counties. This can influence the amount of time available for these very critical hearings and in turn affect the attorneys’ ability to spend the necessary out-of-court time meeting with clients so as to present the best possible information to the court.”

– Hon. Jerilyn L. Borack, Sacramento County, Juvenile Court Presiding Judge

3

Understand and address potential influences on representation quality that exist outside the context of the child welfare system.

“There is no doubt that increased funding is one key ingredient to reducing staff workload and improving child and family outcomes in the child welfare system. Leveraging federal funding with state investments for legal representation is an important start while we also continue to work across systems to address other critical factors that impede social justice, including poverty and housing instability.”

– Frank Mecca, Executive Director, County Welfare Directors Association of California
Improve and refine data management systems to track important variables to better assess the quality of legal representation and case functioning generally.

Although this recommendation does not derive from the specific findings, it does derive from the assessment process itself, which revealed the need for more robust data in each site to track the quality of representation. By improving data management systems and increasing use of continuous quality improvement driven by data, the quality of legal representation can be better measured and linked with outcomes for children and families.

Conclusion

Understanding the impact of funding changes on legal representation is especially timely as the importance of quality representation for children and parents is elevated through federal and state efforts while jurisdictions simultaneously grapple with budgetary constraints. This assessment can inform decisions about how to leverage new funding and allocate existing resources for the greatest benefit to children and families.

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ACKNOWLEDGMENTS

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